

RULE CR-5A. PRETRIAL SERVICES INTERVIEW AND REPORT

(a) Interview.

- (1) *Notice to Defendant.*** Before conducting a pretrial services interview, the pretrial services officer must notify the defendant of:
 - (A)** the circumstances under which the information the defendant provides must be disclosed; and
 - (B)** the defendant's rights during the interview, including:
 - (i)** the defendant's right not to be questioned regarding the charges in the case;
 - (ii)** the defendant's right to decline to speak or provide any information to the officer; and
 - (iii)** the defendant's right to counsel during the interview.
- (2) *Notification Form.*** A form notifying the defendant of the rights set out in subsection (a)(1) is appended to this rule.
- (3) *Presence of Counsel.*** If the defendant wishes to have the assistance of counsel during the interview, the pretrial services officer must afford a reasonable opportunity for counsel to be present.

(b) Use and Disclosure of Pretrial Service Report and Related Information.

- (1) *In General.*** The use and disclosure of the pretrial services report, and any information obtained by the pretrial services officer in the course of performing the pretrial services function, are governed by 18 U.S.C. § 3153(c). The pretrial services officer must limit disclosure to the minimum information and the minimum number of persons necessary to carry out the purpose of the disclosure.
- (2) *Disclosure of the Pretrial Services Report.*** The pretrial services report must be disclosed to the attorney for the defendant and the attorney for the government. The report should not be redisclosed to other persons by the attorney for the defendant or the attorney for the government.
- (3) *Disclosure of the Pretrial Services Recommendation.*** Unless otherwise ordered by the court, the pretrial services officer's recommendation as to the propriety and conditions of release will be disclosed to the parties with the pretrial services report.

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS**

NOTICE TO DEFENDANTS

I, _____, am being asked questions about myself by a Pretrial Services Officer. I will not be questioned about the charges and I should avoid talking about them at this time. I understand I am under no obligation to give any information and I may decline to answer any particular question or all questions. However, I also understand the Pretrial Services Officer is required to provide a report to the court on my general background whether or not I choose to provide information at this time and that the absence of background information for consideration by the court could affect my chances for pretrial release. I further understand the report provided to the court will be made available to my attorney and the attorney for the government.

Any answers to these questions will be used by the court to decide whether I will be released or kept in jail pending my trial and whether I will have to take part in treatment programs such as for drug or alcohol abuse.

Statements I make to the Pretrial Services Officer in the course of the pretrial services function cannot be used against me on the issue of guilt in a criminal judicial proceeding. Any information could affect the decision regarding suitability for pretrial release.

If I am found guilty, either after trial or after pleading guilty, the information I provide to the Pretrial Services Officer will be made available to a U.S. Probation Officer for the purpose of investigating my background and preparing a presentence report and that information may affect my sentence.

I know I have the right to speak with a lawyer before answering any questions. If I cannot afford a lawyer, one will be appointed to represent me during questioning.

I have read this form, or had it read to me, and I understand my rights.

Date: _____

Defendant's Signature

Time: _____ a.m.
p.m.

Pretrial Services Officer

TXW/11/95

TRIBUNAL DE JUSTICIA DE LOS ESTADOS UNIDOS
DISTRITO OESTE DE TEXAS

AVISO A LOS ACUSADOS

Yo, _____, se que me están haciendo preguntas sobre mi persona por medio de un Oficial de la Agencia de Servicios de Pre-Procesamiento. No se me harán preguntas sobre los cargos en mi contra y deberé evitar hablar sobre ello por el momento. Tengo entendido que no tengo obligación de dar ninguna información y puedo reusar a contestar cualquier pregunta en particular o a todas las preguntas que se me hagan. Sinembargo, también comprendo que el Oficial de Servicios de Pre-Procesamiento es requerido rendir un informe a la Corte sobre mis antecedentes personales, decida yo dar o no dar esta información a este tiempo y que por falta de esta información para la consideración de la Corte, pudiera afectar mi libertad de pre-procesamiento. También tengo entendido que el informe que se rinda a la Corte estará disponible a mi abogado y al fiscal.

Cualquier contestación a éstas preguntas las considerará el juez para decidir si es que se me concede libertad o se me mantiene encarcelado(a) mientras penda el juicio o si es que tenga que participar en algun programa de tratamiento tal como contra el abuso de drogas o el alcohol.

Declaraciones que haga al Oficial de Pre-Procesamiento en el transcurso de las funciones de los servicios de pre-procesamiento no podrán emplearse en mi contra en la cuestion de culpabilidad en un procedimiento penal. Falsa información pudiera perjudicar me libertad de pre-procesamiento.

Si se me encuentra culpable, ya sea después de un juicio o de declararme culpable, la información que brinda al Oficial de Pre-Procesamiento será disponible al Oficial de Probación para la investigación de mis antecedentes y para la preparación de un informe de pre-sentencia y dicha información pudira afectar mi sentencia.

Sé que tendo el derecho de hablar con un abogado antes de contestar cualquier pregunta. Si no puedo pagar por sus servicios, uno será nombrado para que me represente durante el interrogatorio.

He leído ésta forma o me la han leído y entiendo mis derechos.

FECHA

FIRMA DEL ACUSADO

HORA AM PM

FIRMA DEL OFICIAL DE SERVICIOS
DE PRE-PROCESAMIENTO

Committee Notes

1. Rule CR-5A is a new rule that prescribes procedures for pretrial services' interview and report, and the management of defendants on supervision who are confidential informants.
2. Subsection (a) ensures that a defendant knows of his rights, and has the opportunity to invoke them, before being interviewed by the pretrial services officer. Appended to the rule is a form pretrial services uses to notify the defendant of his rights, and to advise the defendant that no adverse inference will be drawn from his invocation of his rights.
3. Subsection (b) provides the parties with easier access to pretrial services information, subject to the confidentiality requirements of 18 U.S.C. § 3153(c). The Committee believes that it is consistent with the statute for the pretrial services officer to provide a copy of the pretrial services report and recommendation to both the government and defense attorneys, and that the statute does not require the return of the report at the conclusion of any bail or other pretrial hearing. Cf. 12 ADMINISTRATIVE OFFICE OF THE U.S. COURTS, GUIDE TO JUDICIARY POLICIES AND PROCEDURES, Ch. 3, Pt. A(4)(D)(1) (1999) (subject to district court's practice and procedure, report must be returned to pretrial services officer at conclusion of hearing).